

THE BIG PAPER: the Latin text of Magna Carta and what it means to us

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This year is the 800th anniversary of the signing of the Magna Carta. Everyone knows it as the Magna Carta but it is easy to forget that this is a Latin document – a fine example of medieval Latin. Jonathan Powell takes a closer look at Magna Carta's Latin and at its legal and political importance.

One reason to learn Latin is to be able to understand original documents of our own country's history. Latin was the language in which laws were written in England throughout most of the Middle Ages; so if you wanted to know what the law was, you had to ask someone who knew Latin. In 2015 we celebrate the eight hundredth anniversary of the signing of Magna Carta by King John. But what exactly was Magna Carta? What did it mean at the time? What does it mean to us now? One way to answer these questions is to take a look at the original Latin – medieval Latin, not a common spoken language at the time it was written, but perfectly good Latin for all that.

The Big Paper and the big issues

First, the title. 'Magna Carta' literally means 'the big paper'. *Carta* or *charta* is good classical Latin and derives from a Greek word for a sheet of papyrus, though the writing material in this case was actually parchment made from animal skins. In the Middle Ages, an ordinary *carta* (which we now translate 'charter') was an official document typically granting ownership of land or other property, rather like the contracts exchanged nowadays when houses are bought and sold. For example, if I were to sell or lease a piece of land to you, I would expect to sign a paper which said something like 'I, A.B., confirm by this charter that I have granted to C.D. the piece of land known as ... to be owned and held by the said C.D. and his heirs.' The 'big' variety is drafted in almost the same terms, but it was issued by the king and grants various rights to whole sections of the community – the Church, the nobility, and the free citizens.

The text begins like this:

Johannes, Dei gratia rex Angliae,

**Dominus Hiberniae, dux
Normanniae, Aquitaniae et
comes Andegaviae, archiepiscopis
episcopis abbatibus
comitibus baronibus ... (plus a
long list of other officials) ... et
omnibus ... fidelibus suis, salutem.**

*John, by the grace of God King of
England, Lord of Ireland, Duke of
Normandy and Aquitaine and
Count of Anjou, to the archbishops,
bishops, abbots, earls, barons (etc.)
and all his loyal subjects, Greeting.*

If you have read any letters of Cicero or Pliny, you will recognise the opening formula ('X [nominative] Y [dative] salutem') unchanged from classical times. The letter continues with a long sentence stating an intention '[ad] emendationem regni nostri' (we might say 'to solve the problems of the kingdom') and names those who have given advice, including Stephen Langton, Archbishop of Canterbury, eight other bishops, and sixteen named noblemen (the famous 'barons'). The 'advice' had in fact consisted of threatening John with armed force until he agreed to the terms of the document, but we would not know this from the text: rather it gives the misleading impression of a conscientious king concerned for the greater good of his subjects. The bishops and barons didn't mind this: the main thing was to get him to sign.

Making an agreement with God

The first task was to get John to agree not to interfere in matters of religion. The way this is formulated is perhaps a little surprising.

**Sciatis nos ...co ncessisse Deo et
hac praesenti carta confirmasse**

**... quod Anglicana ecclesia libera
sit.'**

If you try to work out what that meant, you may wonder whether you have read it correctly. Yes, you did:

*'Know first that we have granted to
God and confirmed by this present
charter ... that the English church
shall be free.'*

At least, so the standard translation reads. The wording is just as in the house-buying contract, but the recipient is God. The idea of granting privileges to God through a legal document may well seem outlandish, though perhaps it is not quite so bad if we keep in mind the original meaning of *concedo* (to give way). And incidentally, 'free' here means 'free of English government interference' – not, as later Anglicans might think, free of interference from abroad.

In particular, John confirms that the Church can elect its own leaders. This privilege, the text continues, was granted '**mera et spontanea voluntate**' ('by unmixed and spontaneous free will') and had already been confirmed by an earlier charter, '**ante discordiam inter nos et barones nostros motam**' ('before the beginning of the quarrel between us and our barons') – again stressing the king's apparent good intentions. We would not know from the text that he had actually been forced to accept the appointment of Langton as Archbishop instead of his own nominee.

Making an agreement with the free people of Britain

Then we get to the most important part:

**Concessimus etiam omnibus
liberis hominibus regni nostri ...
omnes libertates subscriptas,
habendas et tenendas eis et heredibus
suis de nobis et heredibus
nostris.**

*We have also granted to all free
persons of our kingdom ... all the*

rights written below, to be owned and held by them and their heirs from us and our heirs.

Note the house-buying formula again (**habendas et tenendas**, traditionally translated 'to have and to hold'). It may seem odd to treat the rights of the citizen as something to be transferred like a piece of property. But it was less odd from a medieval point of view. The medieval king theoretically owned everything and controlled everything; anyone who exercised any power or privilege (even ordinary freedom to move around as one wished) did so because it had been granted ultimately by the king. The only way to limit the king's powers was by getting him to sign them away himself.

Similar charters had in fact been issued by earlier kings, but voluntarily and therefore less famously; for example (in 1100) by Henry I, who distanced himself from the oppressive practices of his father William the Conqueror and his brother William Rufus, and himself confirmed many earlier laws. Some clauses in Magna Carta refer back to earlier privileges, for example in section 13:

Et civitas London habeat omnes antiquas libertates et liberas consuetudines suas, tam per terras, quam per aquas.

And the city of London is to have all its ancient liberties and free customs, both by land and by water.

It is assumed that the reader knows what those were, or could check in the earlier documents. The main idea was that London was a free trade zone, not to be interfered with by the national government.

This idea does not sound unfamiliar to us (we call it deregulation). However, it has to be admitted that most of the clauses of Magna Carta make sense only in the specific context of medieval government, and some others were products of the immediate political crisis in 1215. At the end of the charter (section 61) there is an additional section in the nature of a peace agreement, made

'in order better to quell the discord that has arisen between us and our barons'.

If King John breaks the terms of the charter, he gives permission for the barons to elect representatives from their own number who will point out the breach of good governance and require the king to put it right. If he refuses, then the barons' representatives together with the common people of the whole land

distringent et gravabunt nos modis omnibus quibus poterunt, scilicet per captionem castrorum, terrarum, possessionum, et aliis

modis ... donec fuerit emendatum secundum arbitrium eorum.

will put pressure on us in every way they can, i.e. by capturing our castles, lands, and possessions, and in other ways, until the problem has been put right according to their judgement.

Some suggest that this 'watchdog' committee of barons was an ancestor of our Parliament, but this is unlikely, since the provision was omitted from later re-enactments of the charter. However, the clauses on the freedom of the Church and of the City of London were repeatedly reaffirmed in later times.

The crucial clause and its ancient roots

So also was the most famous clause of all (sections 39–40). Here it is in its original Latin. There are some non-classical words – 'imprisonetur' and 'disseisiatur' derived from French, and 'utlagetur' (outlawed) from Old Norse – but the rest is clear to any Latinist:

Nullus liber homo capiatur, vel imprisonetur, aut disseisiatur, aut utlagetur, aut exuletur, aut aliquo modo destruat, nec super eum ibimus, nec super eum mittemus, nisi per legale iudicium parium suorum vel per legem terrae. Nulli vendemus, nulli negabimus aut differemus rectum aut iustitiam.

No free person is to be detained, or imprisoned, or deprived of his property, or outlawed, or banished, or in any way destroyed, nor shall we go against him, nor shall we send [our agents] against him, except by means of a lawful judgement of his equals or by the law of the land. To nobody will we sell, to nobody will we deny or delay right or justice.

This clause gives the free citizen the right not to be detained or otherwise punished without trial. As we have seen, the way in which this right was 'granted' by the king was typically medieval, but the idea that citizens ought to have that right may show traces of an older ancestry. The principle was fundamental in Roman law (remember the trouble Cicero got into for not giving the Catilinarians a proper trial). Roman law was already being taught in the English universities in the twelfth century, and texts of authors like Cicero were circulating freely among those who could read them. It would not be at all surprising if this famous clause was formulated to some extent under classical influence.

It is important to realize that these rights (just as in ancient Rome) applied only to

those of free status. Many people in England at this time were not 'free', but were serfs or villeins tied to a particular lord's estate. For these, the Big Paper originally offered no protection at all, and thus it was very far from being a universal charter of human rights. Nevertheless, when serfdom disappeared some centuries later, the interpretation of this clause was widened and it was taken to refer to everybody. In that sense it is still regarded as valid in English law – or was, until very recently. In the last few years, the government's counter-terrorism measures have raised the possibility of detention without trial for an extended period. Some see this as a necessary measure to safeguard the national security; others are worried that it is an erosion of basic legal principles. This is not of course in the end a historical issue but a moral one; nevertheless, people still appeal to Magna Carta and its interpretations on one side or the other in the debate.

The importance of the Big Paper

Exaggerated claims are sometimes made for Magna Carta as a founding document of modern democracy, although it actually says nothing about democratic government in the sense in which we understand it. As a reaction against misunderstandings of this kind, it seems now to be fashionable to talk rather dismissively about Magna Carta. Some claim that it is mainly of historical or antiquarian interest, that it is written in a form of Latin that is difficult to understand, that it is concerned largely with the details of feudal administration, that it was not original in its time, that it only stayed in force for nine weeks in its original form, and that most of it did not mean the same then as it was taken to mean later. All this is in a way true, but it is not the essential point. In its time, Magna Carta was a striking and broadly successful example of resistance to a dictatorial monarch. There is no doubt about its Europe-wide, and in due course world-wide, importance in later debates about the limits of government and the rights of the citizen (where, again, ideas from the ancient world have also been crucially important). Though its strict legal implications may be debatable, it has become a symbol of the individual's freedom under the law. In an age in which basic freedoms are again being called into question in many parts of the world, we would do well to keep it in mind.

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Magna Carta can be found at <http://www.thelatinlibrary.com/magnacarta.html> and a translation at http://www.bl.uk/treasures/magnacarta/translation/mc_trans.html.